

## **01-19-11 Planning Commission Minutes**

### ***STAFFORD COUNTY PLANNING COMMISSION MINUTES January 19, 2011***

The meeting of the Stafford County Planning Commission of Wednesday, January 19, 2011, was called to order at 6:32 p.m. by Chairman Gordon Howard in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Howard, Rhodes, Fields, Hazard, Mitchell, Kirkman and Hirons

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Smith, Stinnette, Hornung, Hudson, Ennis and Ansong

#### DECLARATIONS OF DISQUALIFICATION

#### UNFINISHED BUSINESS

Mr. Howard: We have item 1 on the agenda which is the Mount Hope Estates Preliminary Subdivision Plan. I know we have heard from the applicant, or at least staff has at this point. And I would like to see if it's the will of the Commission where we would entertain and authorize, or create a resolution to authorize a closed meeting so we can seek some legal advice from Mr. Smith before we get onto the unfinished business at hand here. So, I'll state it and if it's so moved then it would be so moved. A resolution to authorize a closed meeting. Whereas, the Commission desires to consult with legal counsel and discuss in closed meeting legal advice regarding the Mount Hope Estates Preliminary Subdivision Plan; and whereas, pursuant to Virginia Code 2.2-3711(A)(7), such discussions may occur in closed meeting; now, therefore, be it resolved that the Commission, on this 19th day of January, does hereby authorize discussions of the aforesated matters in closed meeting. Is there a so moved motion?

Mrs. Hazard: Yes, so moved.

Mr. Howard: Second?

Mr. Hirons: Second.

Mr. Howard: Since Ms. Kirkman is here, we are... before we get to the agenda which is item 1 on the Mount Hope Estates Preliminary Subdivision Plan, we have a resolution on the floor to authorize a closed meeting to seek legal advice. I'll call for the vote. All those in favor signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed say nay. The motion is carried 7-0. We'll be in our closed door meeting.

Closed meeting: 6:35 p.m.

Reconvened at 7:06 p.m.

Mr. Howard: Good evening and thank you for waiting. We are returning from our closed door meeting. I'll read the following: a resolution to certify the actions of the Stafford County Planning Commission in a closed meeting on January 19th, 2011. Whereas, the Commission has, on this 19th day of January, 2011, adjourned into a closed meeting in accordance with a formal vote of the Commission and in accordance with the provisions of the Virginia Freedom of Information Act; and whereas, the Virginia Freedom of Information Act, Virginia Code 2.2-3700 provides for certification that such closed meeting was conducted in conformity with law; now, therefore, be it resolved that the Stafford County Planning Commission does hereby certify on this 19th day of January, 2011, that to the best of each member's knowledge: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were discussed in the Closed Meeting to which this certification applies; and (2) only such public business matters as were identified in the Motion by which the said Closed Meeting was convened were heard, discussed, or considered by the Commission. No member dissents from the aforesaid motion.

Mr. Mitchell: Mr. Chairman, I make a motion for certification of the executive session.

Mr. Howard: Is there a second?

Mrs. Hazard: Second.

Mr. Howard: All those in favor signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7-0. We're back into our normal agenda which is... up to item number 1 which is the, under Unfinished Business, SUB1000107 which is Mount Hope Estates Preliminary Subdivision Plan.

1. SUB1000107: Mount Hope Estates - Preliminary Subdivision Plan - A preliminary subdivision plan for 16 single family residential lots on private well and septic systems, zoned A-1, Agricultural consisting of 57.93 acres located at the end of Mount Hope Church Road, approximately 3,700 feet west of its intersection with Brooke Road on Assessor's Parcels 39-25 and 39-46 within the Aquia Election District. (Time Limit: January 26, 2011) (History - Deferred at November 3, 2010 Meeting to December 1, 2010 Meeting) (Deferred at December 1, 2010 Meeting to December 15, 2010 Meeting) (Deferred at December 15, 2010 Meeting to January 19, 2011 Meeting)

Mr. Harvey: Mr. Chairman, I'd like to bring to the Commission's attention, tonight was have the applicant present, as well as Mr. Mikel from the Landfill. He's the superintendent and can answer questions regarding landfill operations. Also, we have Mr. Thompson from the Health Department who can answer some questions about drainfields and wells.

Mr. Howard: Great, thank you. Do we need to hear from staff first as a quick recap? Yes Ms. Kirkman?

Ms. Kirkman: Mr. Chair, I think there's just a procedural matter. Is this the appropriate time to take care of it, Mr. Smith? The timing...

Mr. Smith: I think it would be but I'd defer that to the Commission's will.

Mr. Howard: Absolutely Ms. Kirkman.

Ms. Kirkman: Yes, at this time, given the additional information from the applicant, I'm going to make a motion to withdraw my primary motion for denial of the plan. And I believe in order for that to occur, Mr. Fields, who seconded the motion, would also have to agree to the withdrawal.

Mr. Howard: Correct.

Mr. Fields: I agree.

Mr. Howard: And we should vote on that. So, is there any discussion? The motion on the table is to withdraw Ms. Kirkman's motion which was made at the last meeting which tabled her motion to deny to this meeting today, January 19th; any discussion?

Ms. Kirkman: Yes. Mr. Chair, I made that motion because I do see efforts on the part of the applicant to address the concerns of the Commission. Having stated that though, I still have some concerns particularly around the drainfields and I'm hoping the applicant will be able to address those tonight.

Mr. Howard: Great. Any other discussion before we call for the vote? I'll now call for the vote on the withdrawal of the motion. All those in favor signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7-0. Andrea, did you want to give us a quick update perhaps, just for those watching at home, maybe just tell us what's changed since two weeks ago. So the applicant has come back and made some changes that we requested and maybe you can just highlight those real quick.

Mrs. Hornung: Yes sir. Thank you Mr. Chairman, members of the Commission. At the previous Planning Commission meeting, the members of the Commission requested the applicant to address two items in preparation for your vote on the Mount Hope Estates Preliminary Subdivision Plan. One item was move the reserve drainfields out of the Virginia Power easement while maintaining compliance with the County and State regulations. Those were lots 7, 9 and 10. And the owner did revise the plan and provided revised soil reports that were placed in your packet for this evening. Also, the other item was to ensure that the chain of title include periodic testing and monitoring of homeowner wells for Mount Hope Estates. They did do that; there's a note on the plan. The request was that the owner would add a note that would document the applicant's agreement to record a memo while within the chain of title for the property alerting the property owners of the desirability for periodic water testing. And those items were placed on the plan and you received full size sets.

Mr. Howard: Great. Are there any questions of Mrs. Hornung while she's at the podium?

Ms. Kirkman: Do we have the letter from the Health Department?

Mrs. Hornung: Not currently, no. That would be... I was assured that that would be received tomorrow.

Ms. Kirkman: But it's not... it wasn't in the application for public review?

Mrs. Hornung: No.

Ms. Kirkman: Thank you.

Mr. Howard: Any other questions for Mrs. Hornung? Okay, we'll bring up the applicant.

Mrs. Hornung: Thank you.

Mr. Howard: Unless we... well, you know what? Before you come up Ms. Karnes, can we bring up Mr. Thompson from the Health Department?

Ms. Karnes: Absolutely.

Mr. Howard: Okay.

Mr. Thompson: Good evening.

Mr. Howard: Good evening Mr. Thompson; thank you again for attending our meeting. Do you know why there's no letter accompanying the subdivision plan this evening?

Mr. Thompson: Right. Today there was a submittal; I think Andrea brought down the three revised lots taking the drainfields out of the overhead utility easements. I was in Culpeper today at a meeting all day. Kathy Laffoon, one of the specialists I supervise, looked at all three lots, conversed with Danny Hatch, the soil consultant that proposed the changes, and she approved them all. And she did not have time today to get the letter out. And she sent an email I think to Andrea that said "I'll have the letters out tomorrow".

Mr. Howard: Yes she did; we have a copy of that email.

Mr. Thompson: Okay.

Mr. Howard: Are there any other questions for Mr. Thompson? Ms. Kirkman?

Ms. Kirkman: Yes, I have a couple. So, the paperwork was brought in today?

Mr. Thompson: That's my understanding, yes.

Ms. Kirkman: In her email, she states that, you know, she reviewed the plans and has no problems with it. But then she goes on to state that the plats in Dominion's proposal show the well for lot 10 in different areas. Is she aware that our Subdivision Ordinance requires that the plat reflect what's done in the soil work?

Mr. Thompson: Right; what she did, she noticed that between one soil report and the overall plat there was a difference. But she says there's plenty of room for the well to meet all regulations and separation distances. It's just a slight conflict in the plans that came in today.

Ms. Kirkman: Right, but you do understand our Subdivision Ordinance requires that what comes into you all needs to be reflected on the plan.

Mr. Thompson: Right.

Ms. Kirkman: And I looked at the soil work that came in and I'm wondering how she evaluated that the lots met the... the drainfields met the contour requirements, because the actual soil reports themselves don't have any topo lines or contour lines on them.

Mr. Thompson: She had some questions too, and I got to talk to her today before I came to the meeting tonight thinking that this issue might come up. And she said that she had to talk to Danny Hatch on the phone and his explanations cleared up the fact about contours. We have a slope arrow going up and down the slope so that the contours go perpendicular to that. And, from her talking with Danny Hatch about it, it cleared up any questions that she had.

Ms. Kirkman: But she doesn't have any documentation to that effect?

Mr. Thompson: The file shows that she has approved all three lots. I went by the office before I came here.

Ms. Kirkman: Right; I understand that the file shows that she approved all three lots. Based on the copies of the paperwork we were given, which I'm assuming is the same paperwork you were given, there's no contour information.

Mr. Thompson: I think that's why one of the reasons she talked with Danny Hatch about that.

Ms. Kirkman: So is that contour information now in the Health Department file?

Mr. Thompson: I have not had a chance to review that but I'm sure that her questions about contour were answered by Danny Hatch. The two upper corners of the box showing the primary and the reserve, Danny has clearly stated that they are on contour whether there are contour lines on the map or not.

Ms. Kirkman: And, additionally, in neither the plat nor the soil works are the dimensions of the drainfield areas outlined. Usually we see what the lengths and the widths are on the plat or on the areas where the drainfields have delineated. Or, sometimes in the forms vary from AOSE to AOSE, there's a place where they say what the square footage of the actual drainfield area is; not the requirements for the system but what's actually available. I could not find any dimensions listed anywhere. I also could not find anything on the paperwork where it actually says here's the square... the total square footage. How did she determine that there was sufficient square footage to meet the requirements of our drainfield ordinance, the 2,500 for alternatives, because I think these are all alternative systems?

Mr. Thompson: The dimensions of the drainfields are clearly stated in the abbreviated design form.

Ms. Kirkman: Well, I've got that and I was looking for where it says what the total square footage is. Could you... just like, let's say, lot 10, could you show me where it says that? Because I'm not... you know, each AOSE uses a different form and I couldn't find it on here. It very well could be here that's why I asked that both you and Mr. Hatch could be here tonight.

Mr. Thompson: Okay. I'll get Danny to come up here and assist me with this. The measurements that he has provided, all these measurements are to scale. If you have any question about measurements, you put your scale on there and you can tell the size of the area with the scale.

Ms. Kirkman: Well, I guess my question was, how did your staff determine that it met the requirements? Based on this information here?

Mr. Thompson: I can't answer for Kathy but what she would do is get her scale out and look at the rectangular areas and see exactly how much area it takes up, compare it with the details provided by Danny Hatch and, you have to do that in order, like you say, to be able to verify that there's 2,500 square feet or 5,000 square feet, depending upon the type of system he's proposed. Lot 10, the square footage for the primary is 3,589 and for the reserve it's 4,057.

Ms. Kirkman: And could you show me where that is... what page that is? And again, like I said, everybody's got their own different forms so it's hard to...

Mr. Hatch: Absolutely. On page 4 of 12 in the package, that I signed and dated 1/10/11.

Ms. Kirkman: Okay, got it. Alright, it's on the picture.

Mr. Hatch: That's just the way that... we decided to put it on the site sketch.

Ms. Kirkman: Alright, that's really helpful; thank you.

Mr. Hatch: And as Mr. Thompson said, this is to scale so you can put your scale ruler on there and get the dimensions.

Mr. Howard: Can you just talk into the microphone the next time you address us? Thank you.

Mr. Hatch: I am sorry.

Mr. Howard: Just in case somebody's listening at home.

Ms. Kirkman: Okay. I have some additional questions but it's probably more appropriate after the applicant has come up.

Mr. Howard: Great; thank you. Any other questions for Mr. Thompson while he's readily available? Alright, then I believe it was Mr. Mikel from the County landfill; is that right? Good evening.

Mr. Mikel: Good evening Mr. Chairman, Planning Commission.

Mr. Howard: Thank you for coming down and trying to help us understand what's going on in terms of the landfill. I'll turn it over to the Commission. Are there questions for Mr. Mikel about the landfill? Mrs. Hazard?

Mrs. Hazard: Mr. Mikel, I don't know if you have the drawings... I'm just trying to confirm. Some of the land around this particular proposed subdivision... actually Andrea if you could help... there are a few of these instrument numbers around there. And on our plat the use says vacant. And I'm just trying to confirm if this is R-Board land or whose land some of this is. It says that it's owned by the Board of Supervisors and the City of Fredericksburg; in particular, in the lower right-hand corner, it's the parcel 39-26B. Do you know if that's owned by the R-Board or if that's... it could be just other land. I'm just trying to understand. Do you know if that's...?

Mr. Mikel: It appears that is on... the R-Board doesn't own land per se; it is held jointly by the Board of Supervisors and the City of Fredericksburg. And it appears that the case here.

Mrs. Hazard: And when it says it could be vacant, could that be buffered land or...? Well, I guess we don't know for sure but we believe it...

Mr. Howard: Would that be a future site for a cell perhaps?

Mr. Mikel: It's hard to... I've got different maps and...

Mr. Howard: We recognize that this is the first time you've seen this.

Mr. Mikel: It doesn't appear that that...

Mr. Howard: The concern Mrs. Hazard has, if that is a future cell site, we would like that denoted on the plat.

Ms. Kirkman: Actually, Mr. Chair, to clarify because I share the same concern. If any part of any of the adjacent parcels are used for landfill purposes.

Mr. Howard: Right; yeah, not just cells. Correct.

Mr. Mikel: Well, it appears, Mr. Chairman, according to the scale, that we would not construct landfill that close to that development. In the Virginia code, it's a 500 foot offset from a residential area.

Ms. Kirkman: But is any part of that parcel used for landfill operations or plan to be used for...?

Mr. Mikel: No, no. Not according to this map here.

Ms. Kirkman: So, no part of that parcel? Why is it jointly held then?

Mr. Mikel: I don't know... according to this map, I don't know the whole dimension of this particular parcel right here but on sheet 3 of 6, C3, according to the scale nothing shown on that would be used for landfill. And we go by the Virginia code as far as offset and buffers. And I do believe that we did do an exercise where we measured the offset from the proposed wells to our waste in place from our future expansion. I believe the shortest distance was almost a thousand feet, if that helps.

Ms. Kirkman: So, is that parcel being used to provide the buffer for the landfill?

Mr. Mikel: Yeah, the land was bought for future expansion but we have to meet all the Virginia state code and we have to meet federal regulations as well as we expand. It appears on average when we do expand, and this is looking about forty years into the future, that we do get about a thousand feet from the proposed wells, which the Virginia code requires 500 feet.

Ms. Kirkman: So the concern here, what we're trying to understand is there's a separate issue around the wells. But the whole reason this came up is because the landfill is adjacent to this property.

Mr. Mikel: Yes ma'am.

Ms. Kirkman: And yet on the plat it's marked as vacant land.

Mr. Mikel: Well, currently it is vacant and we're in the permit process with the Virginia DEQ. We do have a part A expansion approved; we are in what's called a part B process. We'll actually design this landfill and get it approved, this eighty acres which goes to the next forty or fifty years of landfill expansion. I could provide a map to the Commission if that would be helpful.

Ms. Kirkman: I think if we could see the parcels, yeah, that would really help. We're just trying to understand how the land should be appropriately labeled on the plat that we're looking at.

Mr. Howard: And also, so, if you're thinking of buying a home, you know exactly what you're buying next door to, not just a vacant piece of property; if you were to look at the plat. Are there any other questions for Mr. Mikel? Mr. Fields?

Mr. Fields: Yeah, Mr. Chairman. How are you doing Mr. Mikel? Good to see you again. How have you been?

Mr. Mikel: Very good.

Mr. Fields: I think it would be informative and helpful if perhaps, rather than... we all know this is very good and it's important... I've worked with you when I was on the R-Board. I know how conscientious all you people are, if someone that was looking to buy one of these parcels, even a parcel that was next to the landfill, came and said "Mr. Mikel, I'm thinking of buying this parcel; what should I be concerned about?" What would be your

answer? And I'm not trying to put you on the spot. Just sort of a person to person answer; how would you explain how you all work... your concerns and how you work to ensure their safety?

Mr. Mikel: Well, our biggest concern is having that buffer. That buffer is a response area not only to separate the landfill from residential areas, but it also allows us to respond to something before it could potentially impact the residential area. That's why we're always concerned with that buffer area and we do have that in our design from our property boundary. There's always potential for things with landfills. The current subtitle D landfill that we use today, as far as the liner system goes, is specifically engineered to protect groundwater. It's a double-layered liner; there's three foot of clay ten to the minus seven permeability which we do exceed that minimum requirement by the state. And there's also a sixty mil HDPE liner on top of that. We're required to consistently pump that leachate out from underneath the trash as it accumulates so it doesn't even have time to sit to actually put weight on that liner to potentially disturb that liner. And as far as I can tell, I've researched in Virginia, I don't think any subtitle D liner has ever failed, that I'm aware of. But there is always that concern. Another concern that you might have is we do produce methane gas, landfill gas. We have an active gas extraction system that's monitored... everything's monitored on a quarterly basis to ensure that no gas escapes the landfill. And we actually have a gas to energy project that consumes that gas and actually produces electricity from it. Not only do we have groundwater probes around the landfill to intercept anything or to detect something that's not right with the water, we have probes for the gas as well. If gas is migrating off the property, it would trip one of our probes and we could react to it. We have many redundant procedures in place as far as reacting to any of these concerns. The only probably real issue that we might have sometimes are odors; just regular day to day operation odors. Looking at the buffer and the distance from the waste in place, we have homes much closer to current operations than this would be in the future and we maybe have had one complaint in the last four or five years, as far as odor. I hope that answers your question.

Mr. Fields: Thank you. I just... like I said, Mr. Mitchell and I have had the pleasure of working with you on the R-Board and I just wanted to... I think it helps to understand, kind of put a face to the exemplary day to day operations of the R-Board, and Mr. Mikel is that face. And I think that's helpful for all of us to kind of get a sense of how things work there. Thank you.

Mr. Mikel: Yes sir.

Mr. Howard: Thank you.

Mr. Hirons: Mr. Chairman, I have a quick follow-up question.

Mr. Howard: Yes.

Mr. Hirons: If there is a failure, if there is an issue, do you have procedures in place where you notify adjacent landowners or homeowners?

Mr. Mikel: Yes, there are procedures in place. If we find out that constituent is in the water and it has left the property, we are required by law to notify adjacent property owners and things of that nature. And then there's a whole remedial plan in place. We have to demonstrate where this constituent might be coming from or we might get into actively treating the water. There's just a set procedure in place that's just lock and step with Virginia law.

Mr. Hirons: And a part of that, did you say, or is there a part of the procedure to test homeowners' wells?

Mr. Mikel: I imagine if there was a concern like that that we would take it upon ourselves to do that for the homeowner.

Mr. Hirons: But there's nothing set in your procedure currently?

Mr. Mikel: I believe there is. If we discovered a plume in the groundwater and we discovered it was going on a property, we would be responsible for reporting that, for investigating that.

Mr. Hirons: Okay.



Mr. Howard: Seeing no one else signaling for questions, thank you very much for coming down and helping us and educating us.

Mr. Mikel: Thank you Mr. Chairman.

Mr. Howard: We're now at the point at our meeting where we'd... wait, hold on Ms. Karnes... where we take a break and we allow the public to make public comments. We do have a public hearing scheduled on the agenda tonight. So if you're here for that public hearing, which is a Conditional Use Permit for Mohibi Property, this is not the time where you would come up and speak about that issue. But you may come up now at 7:30 and talk to the Planning Commission about any other issue that you wish to discuss with us. When you do so, we just ask that you state your name and address, and you have three minutes. When that green light goes on, your three minutes begins. When the yellow light comes on, you have about a minute left. And then when the red light starts to flash we just ask you to conclude your comments to allow someone else to take the podium. So, anybody wishing to address the Planning Commission may do so now by stepping up to the podium.

2. Discussion of Residential Facility (Time Limit: March 1, 2011) (Deferred at December 15, 2010 Meeting to January 19, 2011 Meeting)

Discussed after public hearings.

3. SUB1000222; Ambrose Estates, Preliminary Subdivision Plan - A preliminary subdivision plan for 12 single family residential lots on private well and septic systems, zoned A-1, Agricultural consisting of 47.7 acres located on the west side of Greenbank Road approximately 1,700 feet south of Walnut Grove Drive on Assessor's parcels 44-18 and 44-19 within the Hartwood Election District. (Time Limit: March 18, 2011) (Deferred at January 5, 2011 Meeting to January 19, 2011 Meeting)

Discussed after public hearings.

4. Rappahannock River Overlay District and Potomac River Overlay District (Referred back by Board of Supervisors) (Time Limit: October 6, 2010) (History - Deferred at June 16, 2010 Meeting to August 18, 2010) (Deferred at July 21, 2010 Meeting to September 1, 2010) (Deferred at September 1, 2010 Meeting to October 6, 2010 Meeting) (Deferred - Requesting additional time from Board of Supervisors)

5. Discussion of Conditional Zoning (Proffers) (Time Limit: April 6, 2011) (In Committee)

6. Discussion of Privatized Liquor Sales (Time Limit: April 6, 2011) (In Committee)

7. Discussion of Transfer of Development Rights (TDRs) (Time Limit: April 6, 2011) (In Joint Committee)

#### NEW BUSINESS

None

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**7:30 P.M.**

#### PUBLIC PRESENTATIONS

Mr. Waldowski: Paul Waldowski. I know American Idol starts tonight and I was going to come sing to you but I thought I'd just wear my t-shirt that says "that God said this and then there was light". Okay. I'd like to start off by reminding you of the big three that was in our country, Ford, Chrysler and GM. And the reason I'm starting with that is because GM is now Government Motors that we're all a part of. And the reason I bring this up is because there's a big three in the communications world called AT&T, used to be MCI and Sprint. And some people don't realize that 3G means third generation and 4G means fourth generation. And I've been an IBM'er for thirty-two

years now which means I've been trying to make a smarter planet even though I don't live on a smarter planet. But yesterday's attendance at the Board of Supervisors enlightened me about this 150 foot monopole by a company that I call not the big three, T-Mobile. And I did a little research on this and I realized that Supervisor Stimpson really put some brakes on this and is looking at setting up a plan; because I loved her comment that it was "easy pickins for these people to come in here". As a matter of fact, Mr. Hiron, the applicant was so enthusiastic about your full support, which I'm sure wasn't a true aspect of what I know about you, but it would be interesting for you all to watch that on TV and, unfortunately, you'll have to see my three minute speech. But I wanted to bring that to your attention because one of the things we need to look at in the future is not just a plan, but a lot of these big three companies like AT&T create 199 foot towers with a beacon for safety reasons. And not only is 150 feet an eyesore, especially in a rural area, and if you've been aware of what's going on this week in the legislation, Senator Stuart introduced some aspects about UDAs and I don't have all the specifics. But like I said last time, when I was technically interrupted, we're in a suburban area which means stop the urban baloney and we'll never create an urban area because if you really read the legislature, we don't have the transportation infrastructure and especially the water and sewer. And it's interesting to listen about this landfill because anyone who buys land near this landfill is buying a landmine.

Mr. Howard: Thank you Mr. Waldowski. Anyone else wishing to address the Planning Commission may do so by stepping forward.

Ms. Kirkman: Mr. Chair, I do think a reminder is in order that speakers are not to address individual members of the Planning Commission.

Mr. Howard: I agree, thank you. We do ask that the speakers address the Planning Commission as a whole, not individual members. Seeing no one else advance towards the podium, I will close the public comments and we'll go back to the agenda, and now ask Ms. Karnes to come up representing the applicant for Mount Hope Estates.

1. SUB1000107; Mount Hope Estates - Preliminary Subdivision Plan

Ms. Karnes: Good evening Mr. Chairman, Planning Commissioners and staff. My name is Debrae Karnes for the record, representing the applicant. And I'm with Leming and Healy. It's my understanding first and foremost that at least one of the Commissioner's asked to have Danny Hatch on board to answer any questions. If it's okay and the will of the Commissioners, I think it's probably most important to allow Mr. Hatch to be questioned and then I will summarize.

Mr. Howard: Sounds wonderful. You have questions for Ms. Karnes?

Ms. Kirkman: I do have some questions for Ms. Karnes not related to the drainfield issues.

Mr. Howard: Absolutely, go ahead. Ms. Karnes, since you're at the podium, Ms. Kirkman has a few questions.

Ms. Karnes: Okay.

Ms. Kirkman: I just... I'm trying to clarify the applicant... we have the applicant as being Culpeper Investments LLC but on the soil work it says the owner is Sona Homes? Could you please explain that discrepancy?

Ms. Karnes: Sona Homes, and I'll ask Mr. Patel to correct me if I'm wrong, Sona Homes is the name they operate and market under. Is that correct?

Voice from audience: (Inaudible).

Ms. Karnes: And so what he repeated was that Culpeper Investments is the owner of the property, Sona Homes is the general contractor that markets the land.

Ms. Kirkman: Markets it? Because they're listed as the applicant for the sewage disposal.

Ms. Karnes: On Mr. Hatch's form?

Ms. Kirkman: Mmhmm. That's not marketing.

Mr. Howard: So is that just a... obviously they work together. One is the holding company and one is the construction company.

Ms. Karnes: They are representing the same entity. Sona Homes represents, if you will, in other words works with the owner, Culpeper Investments.

Mr. Howard: But Culpeper Investments is not doing business as Sona Homes?

Ms. Karnes: No.

Mr. Howard: Right. So it could just be an oversight on the engineer with who they listed on the summary form as the owner. That's what it appears to be.

Ms. Kirkman: Okay. Is it a totally separate company? Not... and that you all don't have anything to do with other than you hire them to contract?

Ms. Karnes: Well, why don't you come up here?

Mr. Patel: Commissioners, good evening. My name is Alpesh Patel representing Culpeper Investments, the applicant and, by proxy, Sona Homes. For a bit of clarification, as I mentioned earlier and Commissioner Howard restated, Culpeper Investments is the holding company for the real estate parcel which purchases the land, does not hold the general contracting license. Sona Homes is the actual business entity. There is common ownership between the two corporations, but they are totally separate corporations.

Ms. Kirkman: Okay. Thank you.

Mr. Howard: Thank you. Were there any other questions of Ms. Karnes?

Ms. Kirkman: Well, Ms. Karnes... I don't know if Mrs. Hazard wants to ask about the note and properly designating the adjacent parcels?

Mr. Howard: Go ahead Mrs. Hazard.

Mrs. Hazard: Ms. Karnes, as we were talking before about the plat, we had some concern... or I have some concern about with that land being said as vacant. I'm just trying to... as you know, notice is something I'm concerned about and it may be vacant land, but it may be for R-Board or landfill purposes. And I guess I was just trying to get your reaction to that. If that is really landfill purposes, even land... I would prefer certainly to have that noted in that way because someone looking at that seeing that the County owns something that's vacant land or if it's buffer land or somehow described of what that is. And I guess... I think that goes to my other sort of question is on our first set of plans, we did have on that note five the statement that the project is located adjacent to the Stafford County and City of Fredericksburg Regional Landfill. And on the next set... and then after that it talked about the recommendations. On our next set, which I am very impressed with where you all have gone with regard to the notice requirements, we have deleted that statement. And I think that is actually an important statement of notice for someone who does go and pull the plat. So, I'm just sort of throwing out there if that's something that either we can rectify in some way or if there's some type of notice. But I'm certainly open for your comments as well.

Ms. Karnes: Well, the note that was delivered, the first sentence did state that the landfill was adjacent. And if it is the Commission's wish, we would be more than happy to write in that first sentence as part of the replacement note. It's my understanding that since it's a non-substantive change, it would be possible to handwrite the note tonight on the version if, in fact, the Planning Commission elects to take action tonight.

Ms. Kirkman: We're still trying to determine if any part of those parcels... and I think, Andrea, we're going to need the R-Board maps up there to take a look at that... if any part of parcel 39-24 or parcel 39-23 is used for any part

of the landfill operations, including buffers. If any part of those parcels are used for landfill operations, including buffers, is the applicant going to be willing to change the use from vacant use to whatever the terminology in our Zoning Ordinance is?

Ms. Karnes: We will make any change you want on the preliminary plan to that effect.

Ms. Kirkman: Okay, thank you.

Mrs. Hazard: Mr. Chairman, if I could just add, I think 39-26B as well I think would be...

Ms. Kirkman: Okay. Those were the two I saw.

Mrs. Hazard: Yeah, down in the far right-hand corner, I think, is the three of them.

Mr. Howard: Ms. Karnes, would you like that repeated on those three?

Ms. Karnes: It's 39-26B, C and which was the third?

Ms. Kirkman: It's the lots that are owned... jointly owned by the Supervisors and the City of Fredericksburg.

Ms. Karnes: Okay.

Mr. Harvey: Mr. Chairman, would you like us to put that graphic up on screen?

Mr. Howard: Sure, thank you.

Mr. Harvey: Computer please.

Mr. Howard: Can you zoom that Andrea? The little plus sign on the top of that menu bar there.

Mrs. Hornung: (Inaudible).

Mr. Howard: Okay. Well, it was the parcels adjacent to... this doesn't seem to denote the same. Your right-hand corner.

Ms. Kirkman: Mr. Chair, I think Ms. Karnes understood what was...

Mr. Howard: Okay.

Ms. Karnes: Yeah. I guess my question to you is just to clarify. Since we heard Mr. Mikel say no operations will be located on the site, do you think potential buffer area is an accurate description?

Ms. Kirkman: I think I need to see the word landfill somewhere, which is better than dump.

Ms. Karnes: Potential buffer area for the Regional Landfill.

Ms. Kirkman: Well, except for... I mean, we have a term in our Zoning Ordinance for landfill uses, that's the use of the parcel and that's what needs to be on there.

Mr. Howard: We were looking, Ms. Karnes, to clearly state, you know, vacant land is owned by the landfill, right? But say the word Regional Landfill.

Ms. Karnes: Regional Landfill. Understood.

Ms. Kirkman: Right. Regional Landfill would be perfect.

Mr. Howard: That's what we were looking for. So, if you're a homeowner you can go talk to the Regional Landfill people and Mr. Mikel and others can assure them of the safety and go over all of the protocol and hopefully make them feel at ease. That's what we're looking to accomplish; is that correct Mrs. Hazard?

Mrs. Hazard: That's correct.

Mr. Howard: Okay. Alright, any other questions of Ms. Karnes? Alright, so we will bring up the AOSE, soil engineer.

Ms. Karnes: Yes, and may I introduce again the AOSE Danny Hatch.

Mr. Hatch: Good evening Mr. Chairman, members of the Commission.

Mr. Howard: Good evening Mr. Hatch.

Mr. Hatch: I'll use the microphone this time.

Mr. Howard: Thank you.

Mr. Hatch: Alright, what questions could I help you with?

Ms. Kirkman: Mr. Hatch, thank you for coming up this evening. I've seen you here before and you're always helpful. And I did request that you be here. Actually, the Health Department has already confirmed one of my concerns which is it looked to me like some of the stuff on what you submitted to them wasn't quite matching up to the plat. We know that that needs to be fixed for lot 10, but I think that may be an issue for some other lots as well. So, I wanted to clarify with you, for instance, on lot number 8... and I think the issue is making the plat consistent with what you submitted as the areas for the drainfields, so I don't know if you need to look at the plat?

Mr. Hatch: Well, just to clarify what has been as far as resubmitted recently, the three lots, the 7, 9 and 10, none of the original drainfield sites were changed. The only thing we did was to take the reserve out of the easement. So, basically we used the original configuration, I did no new soil work, no new staking of area or anything like that. It's just a matter of taking the drainfields that had already been looked at once before by the Health Department and by you folks as well and staff, and changing them from conventional to an alternative system which allows us to use a smaller footprint. So, that may give you a little clearer direction of how we handled that situation as far as taking the reserves out of the easement.

Mr. Howard: So you re-engineered the drainfields basically.

Mr. Hatch: That is correct. The soil work, the rates, the depths, all we did was change the design.

Ms. Kirkman: Well, I still have some questions.

Mr. Hatch: Alright, and if there was... in our...

Ms. Kirkman: Well, and this may have existed prior and it wasn't until I was looking at the soil work which we did not get... we've only gotten it for three lots so that's why I'm having to ask you part of these questions because we don't have the soil work for all the lots.

Mr. Hatch: Oh, okay. So lot 8 is what you're referring to now?

Ms. Kirkman: Lot 8. Now, my understanding is the reserve area has to equal the same size as the primary area, yet it looks like the reserve area is smaller than the primary area and I'm wondering if that's in fact because the area that's denoted as primary also includes some reserve area which is not denoted on the plat.

Mr. Hatch: That is correct. We have the primary as 4,372 square feet and the reserve using site 6 and a part of site 5 as 4,880 square feet. So we do have more square footage in the reserve than we do have in the primary. Now, if that's something that needs to be denoted on the plat, certainly that correction could be made. I don't have the plat...

Ms. Kirkman: My understanding is what's on the plat needs to reflect what's in the soil works. So, if the reserve area is split up, it needs all the areas that are going to go into the reserve need to be denoted on the plat.

Mr. Hatch: Alright.

Ms. Kirkman: And that's really I think more of the engineer's responsibility than yours.

Mr. Hatch: But we try to work together and make that happen. Absolutely.

Ms. Kirkman: But could I ask you this, because one of my concerns about splitting these reserve fields up like this is if the primary fails and that area is part... I mean, it's essentially part of the primary field that you're using for the reserve area. How is that still going to be usable if the primary fails?

Mr. Hatch: It's the primary... I mean, are you concerned about if the primary failed it would contaminate that additional reserve area we're talking about?

Ms. Kirkman: Yes... well, not the one that's separated because there's... like if we're using lot number 8 for an example and there's a separate reserve area which is not the total reserve area. It looks like there's a little chunk over there that's contiguous with the primary area, correct?

Mr. Hatch: Correct.

Ms. Kirkman: So, if that primary area fails, how is it that everything fails except for that little chunk, which is still usable somehow?

Mr. Hatch: The reserve area that you see there on site 6...

Ms. Kirkman: This is site 8 we're still talking about.

Mr. Hatch: Lot 8, and the way we label our drainfields is as per site. So on lot 8 we have site 5 is the primary and additional reserve and site 6 as the reserve site.

Ms. Kirkman: Right.

Mr. Hatch: Alright. If the primary certainly did indeed fail, again, we're kind of getting into the what ifs that we're talking about. If this thing is moving laterally through the subsoil, that's one situation. If it's coming out to the top of the ground and coming over the surface, you know, that's another situation. Certainly, that particular little strip there could be used for if you wanted to add on additional trenches to the primary to give it some relief or to add on more trenches, put pretreatment on the primary; I mean, there's a lot of what ifs that you could use that additional reserve. The site 6 is truly the reserve area, and if you give me just a moment...

Ms. Kirkman: Well, this is what I'm trying to understand and, again, we don't have the paperwork on that lot, is if that separate reserve area that's non-contiguous with the primary area, is that alone sufficient to meet your reserve requirements?

Mr. Hatch: What I'm calling additional reserve?

Ms. Kirkman: No, not the additional... the additional reserve is the part that's contiguous to the primary.

Mr. Hatch: Correct.

Ms. Kirkman: I'm talking about the reserve area that is non-contiguous with the primary. Is that area alone sufficient to meet your reserve requirement?

Mr. Hatch: Yes it is.

Ms. Kirkman: So, this is where I think it's just trying to get... understand what's on here, right. So you've got excess reserve capacity on lot number 8.

Mr. Hatch: That is correct.

Ms. Kirkman: Great; that's what I wanted to know on that one.

Mr. Hatch: Alright.

Ms. Kirkman: And then is that the same for we've got... again it looks like this is maybe a labeling issue. Lot number 2 has the same thing where it looks like what, there's some what you're calling additional reserve, contiguous with the primary.

Mr. Hatch: Lot 2... excuse me, it's been a while since I've looked at some of these myself. Alright, and this is lot 2 that we're looking at? And yes. Again, site 14 does provide the complete reserve...

Ms. Kirkman: We don't have your site numbers so...

Mr. Hatch: Oh, I'm sorry. On lot... this is lot 2, well, the one that's labeled the reserve which is toward the back of the lot and then the primary which would be (inaudible) in the middle of the lot, that would be obviously where the install would go and then the site 4 would indeed give you a hundred percent full reserve for that lot. That is correct.

Ms. Kirkman: Okay.

Mr. Hatch: And the additional reserve... you have to keep in mind, when you're out there as a soil scientist laying out these sites, you're looking at the most appropriate landscape that you can find. So you max out the landscape and the soils dictate what type of system, how many bedrooms you can get on this particular area. So, when you see these sort of pieces if you will, that's more or less after the landscape has been evaluated and then we go back and go "okay, we need more area to go with this". Or "we've got better soils over here on this landscape on this lot". So that's... you know, we're not calculating in our head that "gee, I've got 4,000 square feet; that's all I need". It really doesn't work that way.

Ms. Kirkman: Right. We actually have seen some that do work that way which is why I'm trying to (inaudible).

Mr. Hatch: Oh, well, I'm a soil scientist first and an AOSE second, I'll say that. So I'm always looking for the landscape.

Ms. Kirkman: We see reserves for alternatives that are twenty-five hundred and one foot.

Mr. Hatch: Oh.

Ms. Kirkman: And I've even seen some right at twenty-five hundred. Now, I do have some questions about lot number 9.

Mr. Hatch: And you do have the new paperwork on this I assume.

Ms. Kirkman: Yes.

Mr. Hatch: Alright. And what page are you on?

Ms. Kirkman: But, again, because all these forms are different from one another, I was trying to figure out when you list your areas for the reserve for this lot, is that... on the paperwork when you list your area and your design requirements, is the area just for the... does that include just the area for the area that's marked reserve or does it also include square footage that's over there in what you're calling additional reserve that's contiguous to the primary? In other words, it's the same question for this lot. Is that reserve area alone sufficient to meet your reserve requirements on this lot?

Mr. Hatch: Yes it is. The site 1 has got primary and reserve. And I do want to clarify this; when Kathy called me this afternoon on this particular lot right here and after looking at it a little harder, and if I may... are you looking at page 4 of 11?

Mr. Howard: Where you have the square footage denoted on the top?

Mr. Hatch: That is correct.

Ms. Kirkman: Let me get that. Yes, I have that.

Mr. Hatch: Okay. What is a little bit confusing there, I should have cut that reserve line off at a little different angle. If you look at point A, A to B is on contour like Tommy was talking about earlier, and then if you go straight down to D into E, alright, and then go across to F, E and F is on contour. And then you'll come back up to A. Basically, that is your box, if you will, and your primary is in the lower part, your reserve is in the upper part, the little triangular part you see that is D, C and B is additional reserve and the site 4 would be additional reserve area if needed down the road. So, in the A-B, E-F box, if you will, we have enough room there to put the alternative primary on the lower part which has the better soil and also duplicate that in the upper part which basically I need an area sixty feet this way, fifty feet across the contour and that meets that criteria right there.

Ms. Kirkman: So, site number 4... the square footage of site number 4 is 3,251?

Mr. Hatch: No, the square footage of what's labeled reserve and additional reserve is 3,251.

Mr. Howard: That was Ms. Kirkman's original question.

Ms. Kirkman: That's my concern.

Mr. Howard: So, is that large enough?

Mr. Hatch: Oh, absolutely.

Ms. Kirkman: Well, but my concern... what I want to hear you address on this lot is if... because we do have to talk about what ifs because that's the whole purpose of the reserve legislation.

Mr. Hatch: Sure; absolutely.

Ms. Kirkman: Is if the primary fails, what is to keep it from contaminating that contiguous part that you have denoted as reserve?

Mr. Hatch: So you're concerned about them being bumped right up to each other in there?

Ms. Kirkman: Yes. Particularly when it contains... if site 4 alone were sufficient, I would not have that concern. But you have clarified that on this lot, site 4 alone is not sufficient.

Mr. Hatch: I would have to say with the design we have in this particular package, it's additional reserve that would be added... you know, you could still do some type of design in there and get some type of system on



there. But for our preliminary designs for, you know, our abbreviated designs for this case, the area that I've got denoted as reserve certainly does give you a duplicated system. Now I understand where you're coming from. You're concerned about these two bumping up against each other which, as far as I know, since the beginning of the Health Department, have always had many times reserve and primary within the same box that you're talking about. If indeed the primary did have a problem and it came to the surface, normally what would happen is you would... you know, the Health Department would get involved obviously, you would stop using that drainfield, you could go on pump and haul for a short period of time, let that area dry out before it would move on to the reserve site. Now this particular one, the reserve site is up-slope from the primary. So the concern about it going into the reserve is really very minimal or none on this particular site right here. But even if it came to the surface and flowed over land, by letting that drainfield dry out and letting the soils sort of recoup themselves if you will, particularly anything that may have come onto the reserve site, certainly you could go into that soil and put in a reserve site if indeed that was the best case at that time.

Ms. Kirkman: So, if I'm understanding you correctly, what you're saying is that because the primary is downslope from that piece of reserve that it's highly unlikely that a failure of the primary would affect the secondary.

Mr. Hatch: Well, absolutely. Particularly on a twenty-one percent slope; that's a pretty steep piece of land right there.

Ms. Kirkman: Well, we won't debate the merits of building on steep slopes. But I would suggest that you not... I don't think it helps to say that the solution if a primary reserve is to temporarily go on pump and haul.

Mr. Hatch: I'm just saying that's one scenario. I mean, there's many (inaudible).

Ms. Kirkman: You answered my question, thank you.

Mr. Hatch: Alright.

Mr. Howard: Thank you. Ms. Karnes, there are a few issues that are what I would call up in the air. Does your client have an appetite to allow us to defer to the next meeting so we can get all the notes taken care of? We're not in receipt of the letter from the Health Department so we could actually have that when we make our decision? Is that something that you would entertain or at least ask them? We would defer it to the very next meeting.

Ms. Karnes: Mr. Chairman, my client is really hopeful to get action tonight because we are approaching the time deadline.

Mr. Howard: Right.

Ms. Karnes: But I'll be more than glad to pose the question to them.

Mr. Howard: Thank you. I think it would be very helpful for all of us if we could achieve that.

Ms. Kirkman: Because I think the other thing was the issue of relabeling the adjacent land use and that is a substantive issue that would require the five days.

Mr. Howard: So, if we had that and the letter from the Department of Health we would all, I think, feel better about making our decision. So you can ask the applicant, thank you.

Ms. Karnes: I think I'm hearing a little bit of hesitance just because they've been here for four meetings...

Mr. Howard: Right, I understand.

Ms. Karnes: But I think I saw a nod... yes.

Mr. Howard: Okay, thank you.

Ms. Karnes: I think we'd be very, very anxious to see action taken at the next meeting though...

Mr. Howard: And we will.

Ms. Karnes: ... which I think is February 2nd?

Mr. Howard: Yes, and we will take action on February 2nd.

Ms. Kirkman: So, just to make sure, I think the changes we talked about... this was the drainfield stuff on lot 10 needs to be consistent, right?

Ms. Karnes: Absolutely. The well.

Ms. Kirkman: The land uses need to be relabeled. That sentence needs to be added back in. And there's one other thing.

Mr. Howard: Well, we're waiting on the...

Ms. Kirkman: The Health Department letter.

Ms. Karnes: The comments.

Mr. Howard: So, none of us feel comfortable voting, by the way, without that letter in our hands.

Ms. Karnes: Okay.

Mrs. Hazard: Mr. Chairman, if I could just say... and I would like to just say to the applicant thank you for working with us on this to get to this point. We have been... you have been very responsive to our concerns and so I do want to say thank you for that and thank you for bringing Mr. Hatch and those to explain this to us; it has been very helpful.

Mr. Howard: Very helpful.

Ms. Kirkman: And Mr. Chair, I think when applicants work with us it really does help the process.

Mr. Howard: It absolutely does, I agree. I really do appreciate that very much. Thank you.

Ms. Karnes: Thank you very much.

Mr. Howard: So, we're going to... we'll get a vote on deferring just so it's all official. Is there a motion to...?

Mr. Mitchell: Mr. Chairman, because it's in the Aquia District, I would make a motion to defer until the February 2nd meeting, and in my motion I would also mention that this would be number 1 on unfinished business also.

Mr. Howard: Great; is there a second?

Mr. Rhodes: Second.

Mr. Howard: Second by Mr. Rhodes. Any discussion? Hearing none, all those in favor of Mr. Mitchell's motion signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7-0. Thank you very much. We have to go back to our public hearing presentation. I went back to the applicant of item 1 thinking it would be quick but what was I thinking? So I do apologize. I will open up the public hearing by having staff come forward to brief us on the Conditional Use Permit which is the Mohibi Property.

#### PUBLIC HEARINGS

8. CUP1000208; Conditional Use Permit - Mohibi Property - A request for a Conditional Use Permit to allow motor vehicle sales in a B-2, Urban Commercial Zoning District on Assessor's Parcel 21-69, consisting of 0.534 acres, located on the west side of Jefferson Davis Highway, approximately 1,500 feet north of Telegraph Road within the Griffis-Widewater Election District. (Time Limit: April 19, 2011)

Mr. Harvey: Mr. Chairman, Amy Ansong will be making the presentation on behalf of staff.

Ms. Ansong: Good evening Mr. Chairman and members of the Planning Commission. I stand before you tonight to present the CUP, Conditional Use Permit, for Mohibi Property. Computer please. This is the CUP, Conditional Use Permit, for Mohibi Property, CUP10000208. The applicant is Bari Mohibi. The parcel is Tax Map 21-69. The parcel is located on the west side of Jefferson Davis Highway. The site area is 0.534 acres and the current zoning of this property is B-2, Urban Commercial. This Conditional Use Permit request is to allow motor vehicle sales in a B-2 zoning district. This map shows the existing zoning of the Mohibi Property. It's B-2 and its land use designation is suburban. This is an aerial photograph of the Mohibi Property; it is outlined in the neon green line. Background; in fall 2008 this property had an approved site plan allowing the wholesale business of mopeds and bicycles. In spring 2010 a violation notice was issued due to the lack of a certificate of occupancy for the retail sales of motor vehicles. Here you will see a GDP for the property, Mohibi Property. To the north of the picture that you see is Aquia Creek. On the bottom of the screen is Jefferson Davis Highway and there is one entrance to the site. Next we have some site photos of the Mohibi Property, Tax Map 21-69. This is the current building that's standing on the property. This is another view of the building that's on the Mohibi Property, Tax Map 21-69. Here's another view of the Mohibi Property. Once again, here is another view of the Mohibi Property, Tax Map 21-69. Next we have a summary of the proposed conditions for Mohibi Property, CUP210000208. One of the conditions restricts the parking of vehicles for sale, employee parking and customer parking to designated spaces on the site. Another restriction will prohibit the restriction of carnival style flags, banners, lights, balloons or wind socks on the site. Also, there shall be no more vehicle display spaces on the site than the minimum number required by the Commonwealth of Virginia's Motor Vehicle Dealer Board. Another condition that's proposed is to limit the number of entrances to the site to just one, which is the current entrance off of Route 1, also known as Jefferson Davis Highway. Another restriction will prohibit the loading and unloading of vehicles on Route 1. Also, we are asking that there be a restriction on service and retail sales of automobile parts; and also there will be planting in the gravel and hardpan areas at the sites. When looking at a Conditional Use Permit, there is various criteria that we look at and one of the things that is looked at is whether or not the site conforms and is in accordance with the Comprehensive Plan. So, this slide states a section of the Comprehensive Plan and I'll just read it out loud; "In the Suburban Area designation, new and used vehicle sales, including automobiles and boats, should be limited to the area along Jefferson Davis Highway near the intersection with Ramoth Church Road; and near the intersection with Garrisonville Road". Due to the section in the Comprehensive Plan, staff has decided that staff believes that this CUP is inconsistent with the Comprehensive Plan due to that statement that I just read a couple seconds ago and, as a result of its being inconsistent with the Comprehensive Plan, staff is recommending denial of this application.

Mr. Howard: Thank you Ms. Ansong. Was there... you're citing denial because it's not in compliance with the Comprehensive Plan and what you're citing, I think, is because it's one mile north of the intersection which is identified in the Comprehensive Plan for this type of a business. Is that correct?

Ms. Ansong: Yes, that is correct.

Mr. Howard: Okay. Did we have any distance designation in the Comp Plan for that?

Ms. Ansong: Not that I'm aware of; it just says near. Are you asking how is near defined; is that what you're asking?

Mr. Howard: Yes; great question.

Ms. Ansong: Not that I have seen, no.

Mr. Howard: How is near defined?

Ms. Ansong: How is near defined? Good question. It's not defined in the Comprehensive Plan.

Mr. Howard: Okay. So, in this case, staff looked at it and this is the judgment of staff to say, this doesn't seem to be in compliance with the new Comprehensive Plan based on the language that you read.

Ms. Ansong: Exactly.

Mr. Howard: Okay. Are there any other questions of staff?

Ms. Kirkman: I have two.

Mr. Howard: Sure.

Ms. Kirkman: I think it was just last year that we had a CUP for small motor vehicle sales just like this that was nowhere near either of the two intersections that you've just cited. On that one, staff recommended approval. Can you tell me why staff recommended approval for that when it clearly wasn't in compliance with this part of the Comprehensive Plan, and yet on this one is recommending denial?

Ms. Ansong: I can't tell you right now; I would be more than happy to research that because I'm not quite aware of exactly which projects you're talking about. There might have been more to it. I don't know what the zoning was, I don't know what the land use designation was of the project that you're referring to.

Mr. Howard: It was in the George Washington District and it was for no more than ten car sales...

Mr. Fields: Oh, that's the one on Cool Springs Road.

Mr. Harvey: That was an amendment to an already approved Conditional Use Permit. There was some question about...

Mr. Howard: But we have a new Comprehensive Plan; I was hoping that was going to be part of the answer. Is that not correct or...?

Mr. Harvey: That auto sales that we're referring to in the George Washington District was one that was approved initially and staff did not support it because of the location but the question before the Commission and Board was whether it was appropriate to amend the conditions and not whether the use was adequate. And staff supported that amendment to the conditions.

Mr. Fields: The final analysis, I think... you know, the Cool Springs road is essentially an industrial use corridor and so it makes perfect sense to have something like that.

Ms. Kirkman: Well, this part of Griffis-Widewater is not exactly your agricultural areas either.

Mr. Howard: No it's not.

Mr. Fields: If I could just verify... but Cool Springs Road, what would make, and I've grappled with ones on 17. I've actually had meetings with people that proposed a couple on 17 or different locations where I've said, you know, it really is inconsistent with how the future of the thing goes. Cool Springs Road as you know is a corridor of essentially small independently owned industrial type operations; it sits between Deacon Road and Route 3. And so, I think in everybody's estimation, is one of the most logical places to put this type of use; where's it's not intrusive to anything around it. Being on a major highway is a different story. So, just for what that's worth.

Ms. Kirkman: On the... I guess this is a GDP we're looking at... it has a Tax Map parcel 21-65 which is owned by Tricord; I think that's a residential development company. Is that lot currently developed, because it says land use body of water, which is not a land use?

Mr. Harvey: Ms. Kirkman, if I recall correctly, Tricord still owns undeveloped property associated with the Port Aquia neighborhood. They have not fully developed all the R-2 zoned property on that original tract.

Ms. Kirkman: So, this is part of Port Aquia? This parcel?

Mr. Harvey: Pardon me?

Ms. Kirkman: This parcel is part of Port Aquia?

Mr. Harvey: That's my recollection. It's on the other side of the creek from this property.

Ms. Kirkman: And have there been discussions about developing that?

Mr. Harvey: Not recently, no.

Ms. Kirkman: There's a large right-of-way denoted on one of the depictions; is that for road right-of-way?

Ms. Ansong: Jefferson Davis Highway? Yeah. The eighty foot right-of-way?

Ms. Kirkman: No, on the Tax Map 21-65... how is 21-65 accessed?

Ms. Ansong: I'm not sure. I see it... right below Aquia Creek, right?

Ms. Kirkman: Yeah.

Mr. Harvey: Yes, 21-65 is accessed to the south from the streets within Port Aquia. You can see one of the streets from the neighborhood stubbed to the remainder of 21-65. Port Aquia was part of 21-65 and has been developed over time.

Ms. Kirkman: And, in the staff report, you denoted that they have encroached on the RPA. Was a zoning violation issued for that encroachment?

Ms. Ansong: I believe it was.

Ms. Kirkman: Can Ms. Hudson let us know? Can somebody let us know whether or not...?

Mr. Howard: So, the question for staff is because they encroached the RPA and it's denoted, did the County take action on the applicant?

Mr. Harvey: I'll have to verify whether we sent them a separate violation for that but that has been part of our discussion with the applicant.

Mr. Howard: How is this before us today, because this was... I mean, I drive by this a lot. This is an operating existing business if I'm not mistaken.

Mr. Harvey: Correct. And the issue was, as Ms. Ansong presented in her staff report, there was a zoning violation for not having an occupancy permit for motor vehicle sales. And that's what started the process. In order to get compliant, we met with the applicant and said that you have to apply for a Conditional Use Permit. It was also noted that a parking lot was established in areas designated as an RPA and that would have to be rectified.

Mr. Howard: How is that going to be remedied?

Mr. Harvey: It's referred to in the conditions that they would have to replant that area.

Ms. Kirkman: But this may or may not be approved ultimately by the Board of Supervisors. What I want to know is whether or not a zoning violation was issued for that encroachment on the RPA.

Mr. Howard: We have to get that; they don't know that answer I don't think Ms. Kirkman.

Ms. Ansong: I have the notes from one of the zoning inspectors and basically he has a statement saying that they installed additional parking and they weren't supposed to. But in terms of whether or not an official zoning violation was sent out because of that parking, that's what I'm not too sure about. So I'll definitely be happy to check into that for you.

Ms. Kirkman: Great, thank you.

Mr. Howard: Is the removal of the garage also part of the CUP?

Ms. Ansong: That has already happened.

Mr. Howard: That's already occurred?

Ms. Ansong: Exactly. If you go out there now, and even if you look at the pictures that were part of my presentation, you won't see a garage. That has already been removed.

Mr. Howard: Okay. Any other questions? Mr. Fields?

Mr. Fields: Yeah. So, the applicant had actually been operating a motor vehicle sales facility without a CUP?

Ms. Ansong: Yes.

Mr. Howard: You said without a...

Ms. Ansong: Without a certificate of occupancy.

Mr. Howard: Yeah, without a CO.

Mr. Fields: So they just started like selling cars and figured that was okay? Is that the impression I'm getting?

Ms. Kirkman: But they were involved in a related... they already had permission to sell mopeds and something else? Some other kind of motorized vehicles, just not cars.

Ms. Ansong: Bicycles.

Mr. Hirons: That was my question. Are mopeds not considered motor vehicles?

Ms. Ansong: I don't believe they are based on the discussions I've had with the applicant.

Mr. Howard: I think they're different than a vehicle, car, but certainly they require registration and other elements the same as a vehicle would require. We can ask the applicant how it is they find themselves in this position. Any other questions of staff? Hearing none, we'll now ask the applicant to come forward.

Ms. Kirkman: Did (inaudible - microphone not on) a public hearing?

Mr. Howard: Normally the applicant gets to speak first, right?

Ms. Kirkman: Before? Okay.

Ms. Karnes: Good evening Mr. Chairman, Commissioners and staff. Again, I'm Debrarae Karnes with Leming and Healy, representing the applicant. As you heard, the applicant has used car sales on a small piece of property along Route 1. Now, I'm going to answer one question that you posed to staff and I know you're going to want it confirmed to staff. But the question was, was a zoning violation ever issued for encroachment into the CRPA and the applicant tells me no, it was not. Let me tell you a little bit about the applicant. The applicant's father acquired this property approximately five years ago. This was originally a single-family detached house built in the seventies, pre-dating Ches Bay. Apparently, CRPA covers about ninety percent of the lot. The applicant was involved in selling mopeds and motorcycles and had a license issued by the state and had our local zoning office sign off on that. He thought he was legal. Now, any applicant's obligation is to check out and comply with the Ordinance and obviously he needs a CUP to operate. When he learned of the violation, he came in and met with the County; he wants to make this right. And I have notes of a meeting, I guess, with Rachel Hudson and Jeff Harvey and the applicant in our office dating back from last summer. This applicant, by the way, this is his sole support unlike, you know, the major developers who come in here. He's a little guy trying to make a living doing the best he can. So, that was his approach; to come to the County to ask how to make things right. And the notes from the meeting reflect that he was told that basically he only needed to make very few changes to come into compliance; to make sure he had parking for each of the vehicles he sold in addition to the parking for the folks. That if he did not disturb... that if he kept parking to the asphalt surface, that would be deemed to be in compliance. And the Planning Commission has the authority to review and impose conditions. The applicant is willing to work with the Planning Commission to resolve any other issues it wishes to address. I think I sent staff an annotated copy of the GDP to be displayed tonight. Could you turn the computer on? Could you enlarge it say maybe one time? While they're doing this, I would note that the CRPA on here... well, we'll wait till they get there... there you go. That's okay; I talk too fast anyway so you're forcing me to slow down. Perfect. Okay, so this diagram attempts to label the respective surfaces on there. And you see the approximate location of the RPA that encompasses pretty much all of everything except perhaps a small sliver of the southern portion of the site. Most of the RPA... some of the RPA near the stream is untouched. Most of it is labeled gravel hardpan and the remainder, basically the center of the parcel, is asphalt. That asphalt was there before the applicant and the applicant was told he could retain the asphalt parking lot from the earlier meeting. And the applicant is willing to reseed and replant the remaining RPA in accordance with condition 9. By the way, this auto sales...

Mr. Howard: Yes Ms. Kirkman?

Ms. Kirkman: I know typically the applicant does a presentation but if I could ask questions along the way?

Mr. Howard: Sure.

Ms. Kirkman: This diagram is really helpful. Can you... so, the part that the applicant expanded was the part on this map noted as gravel/hardpan?

Ms. Karnes: I'm not telling you that the applicant expanded it...

Ms. Kirkman: You're taking the fifth.

Ms. Karnes: I don't think it's accurate to say that he moved onto this site and expanded to this degree, to be honest. All I'm saying is that it is gravel/hardpan and he is willing to reseed and replant in accordance with the condition that the staff has asked.

Mr. Howard: So all of the area that's marked, the hardpan area which is the little looks like graph paper...

Ms. Karnes: That's correct.

Mr. Howard: ... that is going to be reseeded?

Ms. Karnes: That is what the applicant is agreeing to do. Now, that's not what the current GDP says. The current GDP calls for some part of the hardpan to be used for parking.

Ms. Kirkman: But the hardpan, which is the existing asphalt parking lot? When you say hardpan, what on this map are you referring to?

Ms. Karnes: I'm referring to what is labeled the existing gravel/hardpan on either side...

Mr. Howard: The graph part.

Ms. Karnes: Yes. And that the area originally shown for additional parking would be located on the northwest side. Seeing the staff recommendation, however, the applicant has had his engineer take another look and we find we can get the required parking on the existing asphalt parking area and comply with the condition proposed by staff.

Ms. Kirkman: So, just to clarify, that would mean all of the graph paper area?

Ms. Karnes: That's correct.

Ms. Kirkman: Okay.

Mr. Howard: Your applicant's coming up behind you to verify.

Ms. Karnes: Okay.

Ms. Kirkman: Engineer, I think.

Ms. Karnes: Engineer. This is Bill Pyle.

Mr. Pyle: Bill Pyle with Greenhorn and O'Mara. Andrea, if you could actually pull up the other...

Ms. Karnes: No, no. That's the only one.

Mr. Pyle: Okay. The diagram that you see here is a current conditions exhibit that basically shows the asphalt with the, I guess...

Mr. Howard: Hardpan and gravel.



Mr. Pyle: Well, it should be asphalt in the center area between the garage that's been removed and the existing building, with the hardpan kind of surrounding it. Now, the required parking, based on the requirements from the Dealer Board and the requirements based on the size of the building, do not... they don't fit entirely within the asphalt area. They fit entirely in the combination of the asphalt area and portions of the hardpan. If you look at the actual GDP that was submitted, you'll note, if you look... does everyone have a copy they can look at?

Mr. Howard: Yes.

Mr. Pyle: For example, the twelve by twenty-five loading space, you can see that the way it was originally drawn, that is actually outside the existing hardpan area.

Mr. Howard: Right, so you're going to be taking up additional area or pavement.

Mr. Pyle: The original proposal I showed on this GDP is to slightly increase the amount of impervious area in those areas, and we were proposing to replant with the hatched areas. So the total decrease was about 2,500 square feet from... counting impervious asphalt parking and hardpan, with the slight increases in the back to get those parking and loading spaces, with the replanting areas to the west and kind of northeast corners.

Ms. Kirkman: So, the GDP that we have is not what you're actually intending to do?

Mr. Pyle: This is what was...

Ms. Kirkman: I understand what was submitted... it sounds like...

Mr. Howard: No, Mr. Pyle is saying what's on the screen is actually what is and it sounds like Ms. Karnes used the what is to say what will be. And he's now indicating that what we have in front of us is what they're proposing.

Ms. Kirkman: Well, I'm trying to understand because there are a number of parking lots on the GDP to the right of the former garage.

Mr. Howard: Correct.

Ms. Kirkman: Which are, if you try and like overlay that onto the graph areas, cover a lot of the graph area.

Mr. Howard: That's right.

Mr. Pyle: I'm sorry?

Mr. Howard: There are eight additional parking spots that you're proposing. Well, maybe not eight; there's probably four additional.

Ms. Kirkman: It looks like...

Mr. Pyle: Well, yeah, there are eight marked display spaces in a row facing Jefferson Davis Highway. You can see, if you, I guess if you start kind of in the top left corner of the existing gravel/hardpan area to be reseeded, 1,950 square feet, that corner is the same line, is the same corner as you see on the screen here. And you can follow that line as it comes down. And you'll see it kind of cuts through the middle of the number 25 in the loading spaces and then cuts through the top of the last four spaces on the right as you work your way to the northeast.

Ms. Kirkman: So, if I could just clarify here, what is... on the GDP that we have, what is the area that the applicant will be reseeding?

Mr. Pyle: The hatched area on the GDP...

Ms. Kirkman: That's the only area that the applicant is going to be reseeding?

Mr. Pyle: That was our original proposal when we...

Ms. Kirkman: I'm trying to understand what... but I'm trying to understand what your proposal is now.

Ms. Karnes: Okay, let me clarify that. First of all, the first exhibit we showed on the computer was existing conditions, not what we propose. In any proposal we made, we have reduced the impact on the CRPA. The GDP submitted by the applicant calls for reseeding portions of the, lack of a better term, the graph area and reducing the impact, the total impact, by approximately 2,500 feet. The condition number 9 requires more than that. Condition number 9 requires reseeding and replanting of the entire CRPA.

Ms. Kirkman: You can't do that.

Ms. Karnes: We are saying we're willing to reseed, replant everything but the asphalt area if the engineer can make it work.

Mr. Pyle: Well, it's not the asphalt... it's not the entire... sorry. We are proposing... this is as shown on the GDP as what our original proposal was. This was prepared before the staff report came out with the proposed condition asking that the entire CRPA be reseeded. In order to meet the parking requirements, we are not... all the requirements will not fit on solely the existing asphalt area. So there is a portion of the existing hardpan area and as shown on the GDP a slight increase that we were proposing and we were originally intending to offset that with 2,500 square feet worth of reseeding. If you'd like, I can put the computer up and point out with the mouse on the GDP, if that would help you.

Ms. Kirkman: I think the problem is we have a GDP in front of us that does not reflect now what the proposal is.

Mr. Howard: I'm not sure if it does or doesn't still based on Mr. Pyle's explanation. What I'm hearing is the area that is labeled on the GDP in front of us that says the hardpan area, they are now proposing to seed that entire area. Where, I guess I'll have to pull it up, but option number 9 indicated that a percentage or portion of that should be reseeded; is that correct?

Mr. Pyle: Well, yeah. Staff recommendation was that the entire, as we read it, the entire CRPA area on the site be reseeded.

Mr. Howard: Okay.

Mr. Pyle: That is not possible to do with all the requirements for the loading zone, the parking spaces, the display spaces.

Mr. Howard: Right.

Mr. Pyle: So, I think, correct me if I'm wrong, what we are willing to agree to is that the remainder of the area that is currently shown as gravel/hardpan will be reseeded minus the necessary improvements as shown on the GDP for the required parking and loading zones.

Ms. Kirkman: So, the GDP that we have in front of us is in fact what you actually intend to do is the CUP is approved. Is that correct?

Mr. Pyle: That is what we intended to do when the GDP was created (inaudible).

Ms. Kirkman: But I want to know what you intend to do now. See, this is where I keep getting confused is right at this point where you say that was what we intended to do. I want to know what you intend to do now should the CUP be approved.

Ms. Karnes: My instructions from my client are that we will take another look at the GDP to see how we can modify it to comply with the County goals.

Ms. Kirkman: Well, how can we...

Mr. Pyle: To more closely comply with the County goals perhaps, because in order to meet the requirements, the zoning requirements for parking and the loading space, those items will not fit solely on the existing asphalt lot.

Ms. Karnes: So, we will have to take a look at that.

Ms. Kirkman: Mr. Chair, could I suggest that perhaps this is before us prematurely?

Mr. Howard: I think it is but we have a scheduled public hearing we'll hold anyway.

Mr. Fields: Mr. Chair? I have to ask a question. Ms. Kirkman, do you mind? I'm sorry...

Ms. Kirkman: I think we have the ability to defer on public hearings.

Mr. Fields: Well, I just need somebody to explain to me, staff or somebody, how it's possible to be this grandfathered for something in the CRPA. How can you be grandfathered for a single-family house and then expand existing pavement for a vehicle sales use which is, even if the service is off the thing... I mean, no disrespect to the person, it's one of the worst possible things you could be doing (inaudible).

Mr. Howard: The question I had is where is the stormwater management?

Mr. Fields: I mean, how are you going to expand the parking lot and there's no stormwater management in a property that inside the RPA sitting right next to Aquia Creek. (Inaudible).

Mr. Howard: Well, all good points but let's...

Mr. Fields: Well, I'm asking the question. I need to know from staff to tell me how that is possible according to the Chesapeake Bay Act and our stormwater regulations?

Mr. Howard: Mr. Fields, the staff is recommending denial of the CUP.

Mr. Fields: Yeah, but not for that reason.

Mr. Howard: Correct.

Ms. Kirkman: And there hasn't been a violation issued, as far as we know.

Mr. Howard: That's right.

Mr. Fields: I mean, I feel I have a right to have my question answered.

Ms. Kirkman: But I want to get back to... Mr. Chair, my point... I think this may be before us prematurely particularly since it's not clear that what has been presented and should the public have examined it on the GDP as what...

Mr. Howard: I appreciate that.

Ms. Kirkman: So, I would suggest that probably what makes the most sense is to postpone the public hearing until we can get before us what...

Mr. Howard: We can certainly advance that towards the applicant and it's just additional money they have to shell out to (inaudible) notification.

Ms. Karnes: Well, Mr. Chairman, I was interrupted mid-presentation.

Mr. Howard: Yes you were.

Ms. Karnes: Now, what I had been segwaying into is the fact that the applicant was willing to work with the County, that the County had met with County staff and been advised of some things that needed to be fixed. It did not... it included parking on the asphalt area. Basically, the applicant was led to believe if he addressed the issues identified by staff in that early meeting, there would be no problems with approval. I discussed this recommendation with Mr. Harvey on the phone last week and this week and he pulled his notes, and he can speak for himself, but basically he tells me he doesn't remember any recommendation being made at the meetings as to chances of approval or disapproval. But that's certainly the impression the applicant got.

Mr. Howard: Fair enough.

Ms. Karnes: Now, having said that, I was trying to explain to you guys that we only saw the conditions last Friday. And when we saw condition 9, we realized that we would have to make changes in the GDP to reflect additional planting and reseeded/replanting in the CRPA.

Mr. Howard: Okay.

Ms. Karnes: And I apologize if there was misunderstanding between the engineer and I, but we talked about changing the parking this afternoon. So we do need to go back and take another look at it and certainly it doesn't look like, you know, it's reasonable to ask for action tonight. I did, though, want to address the Comprehensive Plan issue. For anyone not familiar with Route 1 in this area, you drive north from the Garrisonville Road exit and the intersection, and you see on both sides commercial development including at least four car dealerships. One I think is called Mega Car. And what's different from this dealership is that this dealership sells mostly late model used cars over the internet. It only parks a maximum of ten cars on site. It's not a huge traffic generation factor. The Comprehensive Plan strategy quoted by staff is designed to funnel high transportation generators, such as big car dealerships near interstate ramps such as the Garrisonville Road access. I'm going to submit, as we come back to discuss this in later hearings, that this is consistent with the Comprehensive Plan strategy. It's only one mile away and it's not a huge traffic generation factor. And so, I think our goals today was to get feedback from you guys on what changes you would like to see in this plan.

Mr. Howard: Well, Ms. Karnes, I appreciate the comments. Where are you and your applicant in terms of wanting to defer or postpone your public hearing?

Ms. Kirkman: Mr. Chair, I did... because I had forgotten about the cost to the applicant of the re-advertisement. So, I think what we can do is open the public hearing but continue the public hearing?

Mr. Howard: We can do that as well.

Ms. Kirkman: Because the other... I do want to check with the attorney though just in terms of...

Mr. Howard: We can ask Mr. Smith in a moment. Ms. Karnes, is that something you would consider doing though is postponing, because you could very well end up with a decision tonight that you're not happy with (inaudible).

Ms. Karnes: Well, no, I definitely see the need for change. And let me just verify that with the applicant. Defer? Yeah, he's in full agreement.

Mr. Howard: Okay.

Ms. Kirkman: I'm suggesting we don't need to postpone it; we can open the public hearing and continue the public hearing...

Mr. Howard: Or a motion could be made to not approve as well. I'm not sure that everyone on the dais here is in alignment on the issue.

Ms. Kirkman: Right, but to make a motion to not approve you have to have held the public hearing.

Mr. Howard: That's my point.

Ms. Kirkman: But I do need to inquire with the attorney and get clarification from staff. Are there any requirements about the application being complete a certain number of days prior to the public hearing because we've heard from the applicant they didn't get the conditions until Friday.

Mr. Harvey: The conditions are imposed by the County; it's not a proffer, it's not something offered by the applicant. Also, there is no requirement that conditions be imposed with a Conditional Use Permit, but that's something typically the County does. I do note in discussions with the applicant and understand that this property has been zoned commercial for a number of years. What I would call the north part of the property, it was explained to us that that was a prior gravel area that had grown back over; however, what I call the south part of the property was where there was new gravel and that was what was partly brought to our attention for the violation. So, I agree with Ms. Karnes that the condition, as written, is too broad and needs to be narrowed down as far as where replanting would occur because some of this parking area more than likely existed before the Chesapeake Bay Act came into effect in the County. So, I think staff would welcome the opportunity to work with the applicant on clarifying that condition 9 on what is the area to be replanted.

Mr. Howard: Mr. Harvey, Mr. Fields posed a question before. Mr. Fields, can you ask that question again?

Mr. Fields: Sure. I guess to what extent is all of this grandfathered? I guess I'm just sort of surprised. To what extent... and I guess you're replanting existing gravel and hardpan, that's one thing. But if you're expanding the impervious surface by creating more asphalt parking spaces with I don't see any stormwater management devices of any type, structures of any type actually inside an RPA. I have not understood how that expansion of the impervious is grandfathered.

Mr. Harvey: From a staff perspective, the area that was a recent expansion is not and that's where we need to have the discussion about them re-vegetating that area. The older section, where you see most of the parking on the GDP, is already been gravel for a number of years. From my understanding, they were going to retreat that and bring it up to a more sustainable standard because it had overgrown at the time. But it's been several months since I last discussed that with them.

Mr. Fields: So, the grandfathering is to the extent that all of this activity is all okay even though you could never in a million years do this on a new piece of property. The extent of the grandfathering, is that total? Even with all these changes and modifications and evolutions, you're not triggering some re-accountability for the Chesapeake Bay Act?

Mr. Harvey: As far as stormwater management, we'd have to look at are they creating new surfaces, new impervious area? So in this case we're saying we want to reduce the impervious area so your impact to stormwater would be back to where it was before we noticed the violation.

Ms. Kirkman: Mr. Chair, I have a couple questions for staff.

Mr. Howard: Yes Ms. Kirkman.

Ms. Kirkman: First, how did this violation about the occupancy permit... how did that come to the attention of staff?

Mr. Harvey: We received a complaint and investigated it.

Ms. Kirkman: And I thought... maybe we need something from the attorney on this but regarding the George Washington Commissioner's questions regarding the RPA, aren't lots that are recorded prior to... there's some

staging around the dates... but clearly this one was recorded prior to those dates. Aren't they basically only required to comply with Ches Bay to the extent that's feasible?

Mr. Harvey: There are certain relaxations of the standards for pre-existing lots.

Ms. Kirkman: Regardless of the use.

Mr. Harvey: Yes. And it deals with the proximity to the resource and some of that may imply here. We can get into that in more detail with the Commission the next time we come before you as far as what the standards are for pre-existing lots.

Ms. Kirkman: And I think, in particular, what the thinking was in not issuing a violation notice.

Mr. Howard: Yeah, also I'm perplexed at how we went from selling mopeds to motor vehicles, in a lot that's clearly compromised because of the CRPA. And I'm not sure... it kind of goes to the why wouldn't the County be holding... and I'm not picking on small business, trust me; I'm a big business advocate... but this one just because of its proximity and it's in a resource protection area, a critical resource protection area, which is baffling. This whole thing is baffling. So, Ms. Karnes, if you're willing to withdraw, and I'm not sure procedurally how we do that but we'll figure it out, withdraw the public hearing for this evening from the applicant's side. I think that would be okay with us and then come back perhaps, if we can get it... I don't know what's on the next meeting agenda.

Ms. Karnes: We would be willing not to withdraw the application but withdraw the public hearing. I would have to want to talk to staff to see how we could best meet the County goals. And I'm not sure we could do that by February 2nd but I invite staff comment.

Ms. Kirkman: (Inaudible - microphone not on) going to be a new public hearing scheduled, I don't think you could advertise it anyway.

Mr. Howard: You wouldn't be able to it probably till the 16th.

Mr. Smith: Yes, if the hearing were called off completely it would have to probably be deferred to the 16th meeting to allow for advertising.

Mr. Howard: With any changes in the GDP and I guess we should post the current Conditional Use Permit conditions as well. Go ahead Ms. Karnes; sorry.

Ms. Karnes: To clarify, what additional expense would that be?

Mr. Harvey: To re-advertise, we typically have to run another ad in the paper which we already have plans for one public hearing for that night; I forget the specific case. But it would probably be a few hundred dollars in cost to the County to re-advertise. In addition to that, we notify the adjacent owners. Another option to consider for the Planning Commission is to continue the public hearing, there is no re-advertising for that; the public hearing is left open and adjustments to the application could be made and reflected. It does open the process up for more citizen comments.

Ms. Karnes: And we will agree whichever option the Planning Commission prefers.

Mr. Howard: Well, we can talk about what we want to do but I'm feeling like I'm going to try and get a vote tonight if we have a public hearing myself.

Ms. Karnes: We'd be willing to defer.

Mr. Howard: Okay. But I'd defer to everybody else; I just feel as though there's enough things that I don't feel too good about that if there was some time... and I'm not even sure it's ready for the public hearing, if there are people here to talk about this.

Ms. Kirkman: Wait, Mr. Chair, can we see if there's anybody in the audience that is here to...?

Mr. Howard: Is there anyone who's not involved with the applicant that's here to talk about this particular...?

Ms. Kirkman: Okay, I feel more comfortable simply postponing it under that basis.

Mr. Howard: Okay.

Ms. Kirkman: Mr. Chair, this is in my district. I'm going to make a motion to postpone the public hearing until our second meeting in February.

Mr. Howard: Is there a second?

Mr. Fields: Second.

Mr. Howard: Second by Mr. Fields. Is there any discussion?

Ms. Kirkman: And, Mr. Chair, I think some of the information we're looking for and others may add to this list, specifically what are the... we need to hear from the attorney guidance on how this property... the County's position on how this property is or is not vested regarding the requirements of the Ches Bay Act, as well as any exceptions that are allowed for properties platted prior to the enactment of that. And why there was no zoning violation notice issued if, in fact, they were in violation of the Ches Bay Act. And I think I heard a request from one of the Commissioner's to understand how this morphed from a moped/bicycle shop to...

Mr. Howard: That's why I'm sitting here... and I know Mr. Smith and Mr. Harvey will get us a great explanation on the grandfather clause... but there's a change in use. So I'm sitting here saying I don't know understand how it's grandfathered if we're changing the use of the property. There's really not... I don't believe they would be protected under that. But again, we have time to do some homework so I need to understand that.

Ms. Karnes: We'll get you the information.

Ms. Kirkman: And then lastly we just need to know, and I think what I now understand is the applicant was trying to... had submitted the GDP for the public hearing prior to seeing the conditions. We need to understand exactly what's going to be done on the property or what the applicant is proposing.

Mr. Howard: Right, that's correct; so, if you can get back together with staff and firm up those conditions.

Ms. Karnes: We will.

Mr. Howard: And the stormwater management also has me perplexed. If we're increasing the impervious surface, what are we doing about the stormwater management?

Ms. Karnes: We'll get you answers on that.

Mr. Howard: Okay. Are there any other comments or questions/concerns? Okay, thank you. Oh, we have to call for the vote, sorry. All those in favor of deferring the Conditional Use Permit Mohibi Property to the 16th of February signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7-0. Thank you. Okay, that brings us to item 2, discussion of residential facility. Mr. Harvey?

2. Discussion of Residential Facility (Time Limit: March 1, 2011) (Deferred at December 15, 2010 Meeting to January 19, 2011 Meeting)

Mr. Harvey: Yes, Mr. Chairman, we have Ms. Hudson available to speak to this issue, as well as Mr. Smith. At the last meeting where this was discussed, the Planning Commission asked for additional information regarding changes to the State Legislation related to this matter, as well as other factors. And I'll defer to Ms. Hudson to explain a little bit more.

Ms. Hudson: The memorandum... I'm sorry, good evening Chair, members of the Planning Commission. The memorandum that I wrote to you for this evening with Jeff's signature actually explains why we have sent this to the Board of Supervisors and they approved a Resolution proposing the Ordinance O10-64 to the Planning Commission to authorize a public hearing and to make recommendations to the Board. Basically, the General Assembly amended code Section 15.2-2291(A) and (B) at last year's General Assembly. And they amended the definition of residential facility for licensing by the Department of Behavioral Health and Developmental Services, as well as residential facilities that are licensed by the Department of Social Services. The reason this is here before you is because we wanted to become compliant with state code.

Mr. Howard: Thank you Ms. Hudson. There was also some comments, if I recall, that we were wondering what agencies had oversight of this type of a business and what were the requirements of that particular agency to designate... do I have that correct? Wasn't that a concern that was referenced?

Ms. Hudson: What is listed in the definitions, the proposed definitions are the residential facilities that are Health Department licensed and then residential facilities...

Mr. Howard: Well, there were questions about length of time that you would operate or be required to operate.

Ms. Hudson: To my knowledge there is no length of time; not from the County.

Mr. Howard: Or from the state.

Ms. Hudson: I can't answer that question. I do not know.

Mr. Howard: Okay.

Ms. Hudson: The County ensures that they do have their state license. We have to... as long as they have their state license, there's no reason for the County not to approve the OP. What they're coming in for is a Certificate of Occupancy for a single-family dwelling where they can have no more than eight residents. I'm not sure what the questions were; I wasn't here at the last meeting.

Mr. Howard: Right; no, I understand.

Mr. Harvey: Mr. Chairman, we did provide information in your packet regarding the procedures for licensure for these facilities at the Commission's request.

Mr. Howard: I'm sure it's in attachment 8 with is the thickest attachment.



Mr. Harvey: Yes. And what Ms. Hudson is trying to say, in essence, is that the state code, which is in effect today, basically trumps our local zoning ability to review these types of facilities. If a facility comes in today for a building permit or an occupancy permit, we have to sign off on it that once we see that it's licensed by the state that it's one of these types of facilities. So, we don't have any real regulatory review from a zoning perspective. They have to still comply with the statewide building code which gets reviewed through the Public Works Department, but from a zoning perspective, when someone wants an occupancy permit from one of these facilities, we verify that they have the appropriate state license and sign off. And again, that is in effect today because it's a state law. What our local ordinance does, it creates these definitions so that the public is aware what these facilities are if they so inquire.

Ms. Kirkman: I think... and maybe we might need some clarification from the attorney... but specifically what's still not clear to me in reading this material, including the state statute, is if this includes group homes for people with substance abuse.

Mr. Howard: And that was a question that Ms. Kirkman asked.

Mr. Fields: (Inaudible).

Ms. Kirkman: Well, it's not clear because what they say is for the purposes of this subsection, mental illness and developmental disabilities, shall not include current illegal use of or addiction to a controlled substance. So, to me it's just not clear although they refer to individuals with mental illness, mental retardation or developmental disabilities. So, we may not have control over this but I would at least like to understand what it is.

Mr. Smith: Ms. Kirkman, my reading of that language is that it would not include substance abuse.

Ms. Kirkman: And that is... so under DSM 4, or whatever they're up to now, 5, 9, 10, substance abuse is considered a mental... a behavioral illness. I'm just trying to understand what exactly it is we're agreeing to when we agree with this, if we do.

Mr. Smith: Well, I don't know that, as Mr. Harvey pointed out, that it's agreeing to it. This statute is going to apply whether it's included in the Zoning Ordinance or not.

Ms. Kirkman: Yes, but I do have control over how I vote for it.

Mr. Smith: Absolutely. And I don't read it as applying to; I read it as excluding substance abuse from these types of facilities. But if that understanding is incorrect, that would apply to the County whether we include it in our Zoning Ordinance or not.

Mr. Howard: Is this removing anything from our existing Zoning Ordinance in the County, Mr. Harvey or Mr. Smith or Ms. Hudson?

Ms. Hudson: No. Actually it's adding to the Zoning Ordinance.

Mr. Howard: It provides further clarification, okay. Okay, any other questions of staff from any of the Commissioners? So, our to-do here is to consider sending this to a public hearing?

Mr. Harvey: Yes, Mr. Chairman.

Mr. Howard: Or to authorize a public hearing and make recommendations to the Board. Would anyone like to comment, make a motion, do anything about that?

Mr. Fields: Obviously, there's a large amount of enthusiasm for this, isn't there?

Mr. Rhodes: I make a motion to recommend this for public hearing.

Mr. Howard: Is there a second?

Mrs. Hazard: Second.

Mr. Howard: Second by Mrs. Hazard. Any discussion? Hearing none, I'll now call for the vote and the vote is whether we send... that we should send this amendment to the Zoning Ordinance to public hearing. All those in favor signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7-0. Thank you. Thank you, Ms. Hudson; that was easy. And now we're up to item number 3 which we deferred from the last meeting which is the Ambrose Estates Preliminary Subdivision Plan. Mr. Harvey?

3. SUB1000222; Ambrose Estates, Preliminary Subdivision Plan - A preliminary subdivision plan for 12 single family residential lots on private well and septic systems, zoned A-1, Agricultural consisting of 47.7 acres located on the west side of Greenbank Road approximately 1,700 feet south of Walnut Grove Drive on Assessor's parcels 44-18 and 44-19 within the Hartwood Election District. (Time Limit: March 18, 2011) (Deferred at January 5, 2011 Meeting to January 19, 2011 Meeting)

Mr. Harvey: Mrs. Ennis will be giving the presentation.

Mr. Howard: Thank you.

Mrs. Ennis: Computer please. Mr. Chairman, members of the Planning Commission, item number 3 is a request for a preliminary subdivision plan, 1000222 for Ambrose Estates. The applicant is Jon Riley, Silver Companies. The date of the application was August 13th, 2010. The TRC date was September 6th, 2010. The engineer is Keith Oster with Prime Design Engineering. The applicant and the engineer are here. It's located on Assessor's parcels 44-18 and it's located on the west side of Greenbank Road approximately 1,700 feet south of Walnut Grove Drive. The size of the parcel is 47.7 acres and it's zoned A-1, Agricultural. They are proposing twelve single-family lots and it's within the Hartwood Election District. This is the aerial view that I wanted to show you where it has the two parcels and that you can see that surrounding this area here is the reservoir area. This is the current zoning map and you can see the residential here. This is Greenbank Road and this is, again, the reservoir area. This is the proposed preliminary subdivision that you have. I wanted to point out that the Utilities Department purchased land for the reservoir that was at an elevation of 232 contour which left two areas that I have here, this area and this area, which left these two areas at a higher elevation. So, the Utilities Department did not purchase these initially and what the applicant is proposing, they're odd pieces and they've talked to the Utilities Department to dedicate it to them for future reservoir use. They are proposing private well and septic systems. There's a fifteen foot ingress/egress easement that's being proposed to an existing parcel on 43-81. Currently they have a driveway but there was never an easement recorded for that; it's going across their property, it's existing. VDOT has granted them a waiver of the SSAR and stormwater is maintained through low impact development. RPA is located on the northwest side of the property and signage will be established on the boundaries. I wanted to talk to you about where VDOT granted the waiver, specifically the requirement for multiple connections and multiple directions. Because of the existing development to the north and the reservoir to the west and the water treatment property to the southwest and the existing road on the east side, there was no availability for cross-connections. And that's why VDOT granted the waiver for the SSAR; it was because of multi-

connections. The applicant is proposing using LID techniques that would require minimum ongoing maintenance to the homeowners. What they're proposing is roadside ditches and grass swales with check dams allowing more time for the water to permeate into the ground and promoting infiltration. The stormwater flows into the roadway channels naturally rather than in a concentrated flow area. So they are also minimizing clearing and for the construction. Staff believes this plan meets all the current requirements and we recommend approval of Ambrose Estates. Any questions?

Mr. Howard: Thank you Mrs. Ennis; any questions?

Mr. Fields: Mr. Chairman? And you may not be able to answer this right off. One question I would have is that is if the reservoir protection ordinance that the Planning Commission passed last year were approved, would that affect this design or this project in any way?

Mrs. Ennis: No, I cannot answer that. I don't know what the reservoir protection proposed.

Mr. Fields: Yeah, I'd have to look at it but I'm just wondering.

Mrs. Ennis: I just know that Utilities was only taking up to the 232 contour. The applicant would be glad to answer that.

Mr. Fields: Okay.

Mrs. Ennis: Any other questions for me?

Ms. Kirkman: Yes. Has the Department of Utilities agreed to accept the dedication?

Mrs. Ennis: Yes.

Ms. Kirkman: Do we have something in writing from that?

Mrs. Ennis: I have an email; I didn't provide it because it would be done with the plat.

Ms. Kirkman: Okay. And maybe the applicant can speak to this but there are several adjacent parcels and I don't understand why a connection could not have gone through one of those to Greenback?

Mrs. Ennis: From what... I will defer that to the applicant, but VDOT clearly made the approval because of the multi-connections because of the surrounding areas, because they're existing subdivisions and stuff. But I will let the engineer who met with VDOT explain that if you don't mind.

Ms. Kirkman: Yeah, that's fine.

Mrs. Ennis: Okay, thank you. Any other questions?

Mr. Howard: I think we're good. We'll hear from the applicant now.

Mrs. Ennis: Thank you.

Mr. Howard: Thank you Mrs. Ennis.

Mr. Hornung: Good evening; my name is Chris Hornung, I'm Vice President of Planning and Engineering for the Silver Companies. The owner of this property is LDS Cooper, LLC which is an entity of the Silver Companies, so we are the applicant and the owner of the property, similar to your earlier case. I also have Glen McClenney with M & M Soils here in case there are any questions about the soils work. I'd rather answer the questions that have been posed rather than do any kind of a presentation, and then if there are follow-up questions, take those from there.

Mr. Howard: That's a start.

Mr. Hornung: What we did in the design of this is we actually followed the proposed resource protection area or, I'm sorry, reservoir overlay district. It's a 200 foot offset from the high water mark. The current ordinance is only a 100 foot RPA buffer, but we are proposing a 200 feet and there would be no drainfields within that 200 foot buffer. So if the reservoir protection ordinance were passed, this would comply with it. The issue with the parcels in the back with that reservoir protection overlay district, those two little pieces are essentially rendered completely useless because the 200 foot all the way around it becomes sort of an island. We did talk to the Department of Utilities about whether or not that would help them in any way with future capacity of the reservoir or a possible redesign and they said they would be happy to take those pieces and we have proposed to do that at no cost. And that's what we're proposing as part of our action here; those will be donated to the County. The issue of the adjacent parcels and the connections, my understanding... and Keith Oster is here with Prime Design who can also answer this... the issue is, is that the existing parcels and subdivisions nearby the project already have access. And those parcels, under their current zoning, cannot be further subdivided. They're already A-1 zoned subdivisions. If those pieces could be further subdivided into smaller lots and an access would help in that regard, then it could be but those are already created subdivided parcels that have current legal access from other locations. In this particular case, because it fronts on Greenbank Road and you're not on a major tributary, the benefit of the cut-through is also somewhat minimized between the two because it's not a main road. So when VDOT looked at it, it was simply would this because you have the reservoir on one side and then on the other side parcels that have already been subdivided and created that have legal access, they granted the waiver for not meeting that cross-connection requirement. Any further questions along that I would defer to our engineer. So, those are my answers to the comments that were posed earlier.

Mr. Howard: Thank you. Are there any other questions for the applicant? Or the engineer for the applicant?

Mrs. Hazard: If I could just add that this was discussed some at the preliminary meeting and VDOT did also note that if there were the connections, they would be creating at least one to two potentially non-conforming lots. And that was not also one of the purposes that they had as part of SSAR and Mr. Hornung may have eluded to that. But that was something that I noted in my comments from the TRC, that that was a comment of VDOTs.

Mr. Howard: Thank you. Okay, we have some questions for the engineer. Ms. Kirkman, I think you had a question or two.

Ms. Kirkman: Yes. It's about these access lots, tax map 44-19A. How large is that?

Mr. Oster: Excuse me?

Ms. Kirkman: Tax map 44-19A?

Mr. Oster: 44-19A is 6.11 acres I believe, from memory.

Ms. Kirkman: So, the issue is by the time you put a road through there...

Mr. Oster: Yes, that's exactly the point.

Ms. Kirkman: ... you would not have...

Mr. Oster: Yeah, I calculated very clearly if you put the minimum required fifty foot right-of-way through that parcel, the remaining land acreage would create at least one non-conforming parcel. If that parcel, I believe, was on the order of .2 acres larger, as an example, you know, there would be some benefit but VDOT was very... VDOT actually pointed out to the simple fact that you couldn't go any more than two parcels. And that parcel does indeed front on Greenbank Road and it would simply get too conventional driveways to no degradation to the roadway system. So it was for both of those reasons that VDOT permitted the variance. And I'd like to be clear that it's incumbent on if it is physically possible to make a connection, then we must conform with the SSAR. VDOT, in accepting our variance, didn't really give us anything; they simply acknowledged the fact that there is no net gain by enforcing that aspect of the SSAR. So I just wanted to make that important distinction.

Ms. Kirkman: So, because these connectivity requirements are new and we're still understanding them.

Mr. Oster: Absolutely.

Ms. Kirkman: Why is it that, in terms of the engineering of this, you couldn't have done like a loop that both originated and ended within the parcel?

Mr. Oster: I mean, it wouldn't have been to any net gain...

Ms. Kirkman: Well, except for you'd have two access points.

Mr. Oster: Again, two access points to the same road, a handful of a hundred feet away, that wasn't our intent. Even with the more stringent connectivity requirements of VDOT which we summarized on the cover sheet, the VDOT connectivity information, we conform with even the more stringent recent connectivity guidelines.

Ms. Kirkman: Just for me it's more of a safety issue because if something gets blocked off down in the lower part of this single cul-de-sac and you have no way of accessing those lots behind it; so that's why I was asking about the loop idea and whether or not that was considered. So, the answer is no it wasn't

Mr. Oster: I mean, we considered it for the sake of...

Ms. Kirkman: Oh, you did? Okay.

Mr. Oster: It was considered.

Ms. Kirkman: And it was ruled out why?

Mr. Oster: It wasn't... I mean, it's a matter of perception as far as gain. It just didn't seem to help the property.

Ms. Kirkman: I'm sorry, I just don't understand what you mean when you're saying gain and help the property?

Mr. Howard: I think what he's saying is they didn't see the benefit for the circulation piece which is what you're representing. Am I saying that correctly?

Mr. Oster: As an example, the Battleground Estates lots that were done as part of Celebrate Virginia down towards the end of the project have, some of them, twenty plus lots on a cul-de-sac and they only had one access point. In fact, all of the Celebrate Virginia Parkway, in reality, only has one access point; it does have back access to Greenbank but that was not supposed to be used as an access for the overall project. So you have that issue of if something happens to that road on a project as large as the Celebrate Virginia project and, for twelve lots, there was no requirements for fire/safety to provide an additional access point. And it was not brought up as a concern through any of the review process. So, providing the additional access required more road and an additional connection that, in our view, was not necessary based on fire and safety requirements. And I guess the fire department reviewed the plan and that didn't come up during the review process either.

Ms. Kirkman: And then, while you're up here, let me just ask you because this may help in the future. You stated that LDS Cooper, LLC, that's the same as Silver Companies? Is that correct?

Mr. Hornung: It's one of the entities of the Silver Companies, yes.

Ms. Kirkman: Okay. So, can we just assume if it's at 1201 Central Park Boulevard we can just know it's you guys?

Mr. Hornung: Yes ma'am.

Ms. Kirkman: Okay, that'll help. Thanks.

Mr. Hornung: Okay.

Mr. Howard: I have question. Maybe Mrs. Ennis referenced this; will there be a homeowners association with this small group of homes?

Mr. Hornung: It'll be a public street so there will not be a homeowners association.

Mr. Howard: The reason I'm asking is you've got some, obviously some low tech ways of managing the stormwater management and I'm wondering how that will be maintained? They're good ways to do it; I'm just trying to understand it.

Mr. Hornung: The original concept was to do bio-filters in lots. And we wanted to stay away from those because putting that burden on a homeowner long-term is not good for the homeowner and it's not good for the County either.

Mr. Howard: Right.

Mr. Hornung: Because ultimately they're not maintained and the County has to issue violations.

Mr. Howard: The County has to pay for it.

Mr. Hornung: As far as the maintenance, ongoing maintenance of them, there will be a maintenance agreement. And so my guess is there will have to be some entity that is responsible for maintaining those. So, if that's a homeowners association or some kind of agreement, there are no homeowners' common areas. Like a traditional homeowners association, there's no community center, the roads are VDOT, the roadside ditches are all VDOT; but my guess is there will have to be some legal instrument that requires collectively some method for correcting issues with these low tech facilities in the future. And if that's an HOA or if it's simply some kind of a joint maintenance that wouldn't fit your normal POA and HOA, then that would be the legal instrument we'd have to use. But it would not be a standard annual assessment and there's no large stormwater ponds or any other community facilities to be maintained by the lots.

Mr. Howard: Okay, thank you. Are there any other questions for the applicant? Okay, thank you. I'll bring it back to the Planning Commission. Mrs. Hazard?

Mrs. Hazard: Yes, I would like to make a motion for this one. I will say that having gone to the Technical Review Committee, there were issues raised and we did talk through them. So, again, it was nice working with the applicant working through some of the issues that were raised because we had a lot concerning access and the Utility Commission and those issues. So I do thank you for working with staff through those. And based on that and based on what has been presented tonight, I would move for approval of SUB1000222, Ambrose Estates Preliminary Subdivision Plan.

Mr. Rhodes: Second.

Mr. Howard: Motion made by Mrs. Hazard, second by Mr. Rhodes. Discussion?

Ms. Kirkman: Mr. Chair?

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: I'm going to abstain from the vote and the reason for my abstention is I'm still a bit uncomfortable with the access issue. I really do think it's more of a safety issue and yet I don't know that there's... and haven't had the chance to discuss it with the attorney whether or not it's a sufficient basis to oppose the motion. So, for that reason, I'm going to abstain.

Mr. Howard: Thank you. Any other discussion? Okay, hearing none I'll call for the vote. All those in favor of Mrs. Hazard's motion, which is the approval of Ambrose Estates Preliminary Subdivision Plan, signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed? The motion carries 6-0-1. So six yays, zero nays, and one abstention. Thank you.

Mr. Hornung: Thank you.

Mr. Howard: Okay, the rest of the items on the agenda are in discussion, most of them are committees. We had our public presentation, the public hearing. Mr. Harvey, I know you have a Planning Director's Report.

#### PLANNING DIRECTOR'S REPORT

Mr. Harvey: Yes, Mr. Chairman. Thank you. Two items to report from yesterday's Board of Supervisors meeting; the Board approved the KAMCO rezoning application on Garrisonville Road at Dorothy Lane. The Board also passed a resolution yesterday, and I've included it at your desk, regarding the Telecommunications Plan element of the Comprehensive Plan. The Board has requested the Planning Commission and the Telecommunications Commission to establish a joint committee to review and prepare an amendment to that plan. It was in discussions related to the CUP application for the Synan Road tower in the Falmouth District. The Board felt that they wanted to take a look at the Communications Plan on a broad level seeing as though we know there's a number of proposals in the queue. Specifically, I'll turn your attention to the bottom of page 2; it says that the Planning Commission and Telecommunications Commission Committee shall complete its work and make its recommendations to the Planning Commission no later than April 29th, and that the Planning Commission has to hold its hearing and make recommendations to the Board no later than July 5. So those are some of the hard dates the Board is asking both Commissions to abide by. So, Mr. Chairman, staff would ask that you consider making nominations for that joint committee.

Mr. Howard: I nominate Scott Hirons. Anyone else want to serve?

Mr. Fields: If possible I'll work on it.

Mr. Howard: That'd be great. Mr. Fields and Mr. Hirons are two good choices.

Mr. Harvey: And that concludes my report.

Mr. Hirons: Mr. Harvey, if I could ask, I happen to know a couple of folks on the Telecom Commission fairly well and one of the issues they have, they always have an issue of having a quorum present at their meetings. Could you work with your staff counterpart that represents or works with the Telecom Commission to let them know that this is in their pipeline and try to encourage their members to attend their next meeting which I believe is next Thursday so they can have that quorum?

Mr. Harvey: Yes I will.

Mr. Hirons: Thank you.

Mr. Howard: Was there anything else Mr. Harvey?

Mr. Harvey: No sir.

Mr. Howard: You handed out, so people will know what's in their packet here, the Patriot Ridge Subdivision Preliminary Plan letter of denial; is that correct?

Mr. Harvey: That is correct.

Mr. Howard: Alright, so we have that for our records if anyone wanted to read through that you have it. Mr. Smith, is there any County Attorney's Report?

#### COUNTY ATTORNEY'S REPORT

Mr. Smith: No report Mr. Chairman.

Mr. Howard: Thank you. Any other business by any other member of the Commission? Alright, there's no Chairman's Report tonight. Anyone want to move for the approval of minutes for December 15th?

#### COMMITTEE REPORTS

#### CHAIRMAN'S REPORT

#### OTHER BUSINESS

#### APPROVAL OF MINUTES

*December 15, 2010*

Mr. Rhodes: So moved.

Mr. Mitchell: Second.

Mr. Howard: Any discussion? All those in favor of approving December 15th, 2010 minutes signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7-0. Anyone want to move for January 5th's...?

*January 5, 2011*

Mr. Rhodes: So moved for approval.

Mr. Mitchell: Second.



Mr. Howard: And this is really unbelievable.

Mr. Rhodes: She's got nowhere to go but down.

Mr. Howard: Any discussion? All those in favor of approving the motion which is approving January 5th's minutes signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7-0. Stacie, thank you; great job on that.

Ms. Kirkman: Mr. Chair? I do have one other item.

Mr. Howard: Absolutely Ms. Kirkman.

Ms. Kirkman: I would like to make a formal request that we get a recycling bin back here.

Mr. Howard: Jeff, can we get a blue recycling paper bin?

Ms. Kirkman: However the County... I'm sure the County recycles, so however they do it. And that way you won't have to haul it back up.

Mr. Harvey: I will make that request.

Mr. Howard: That won't even need to be voted on; it's a great idea. Thank you. Any other comments? No? Great, our meeting is adjourned. Thank you.

#### ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 9:24 p.m.